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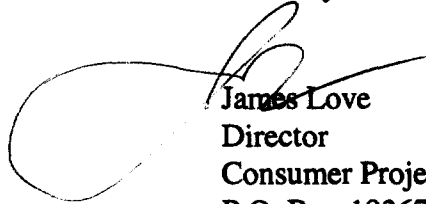
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Secretary William Caton
Federal Communications Commission
Room 222
1919 M Street, N.W.
Washington, D.C. 20554

Dear Secretary Caton:

Enclosed are an original and four copies of our Petition for Rulemaking and Suspension of the January 24, 1996 DBS Auction. If you have any questions please contact me at (202) 387-8030. Thank you for your assistance.

Sincerely,



James Love
Director
Consumer Project on Technology
P.O. Box 19367
Washington, D.C. 20036

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BEFORE THE FEDERAL COMMUNICATIONS COMMISSION
PETITION FOR RULEMAKING AND POSTPONEMENT OF AUCTION

Cross-Ownership Rules for Direct Broadcast
Satellite Licenses

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PETITION OF CONSUMER PROJECT ON TECHNOLOGY
ASKING THAT THE FCC SUSPEND JANUARY 24, 1996
DBS AUCTION AND ADOPT RULES BARRING TCI AND OTHER
OWNERS OR OPERATORS OF DBS, CABLE, OR VIDEO DIALTONE
SYSTEMS FROM ACQUIRING ADDITIONAL DBS LICENSES

The Consumer Project on Technology (CPT) asks the Commission to suspend the planned DBS auction for Wednesday, February 24, 1996, and to adopt new auction rules which prohibit cross-ownership between entities that should be competitors. Specifically, the following entities should be prohibited from bidding on new DBS licenses:

1. Companies that are significant investors in cable television or Video Dialtone (VDT) services in the United States. DBS is a service that is supposed to compete against cable or VDT.
2. Companies that are significant investors in other DBS satellites. These license holders should be competing against each other.

The Consumer Project on Technology (CPT) is a project of the Center for Study of Responsive Law. The CPT (and the CSRL) is a non-profit organization created by Ralph Nader to protect consumers and taxpayers. Information about the CPT is found on the Internet at <http://www.essential.org/cpt>.

Cross-Ownership and the Consumer Interest

The FCC should not allow either a major cable operator or a current DBS license holder to acquire a new DBS license. These entities should be independent competitors. Competition between cable operators and DBS, and between competing DBS license holders. This will not happen if the cable operators hold DBS licenses, or if DBS licenses are jointly owned. It is incredible and distressing that the FCC would allow a firm that is both a major cable operator and a part owner in one of three national DBS licenses (Primestar) to acquire the third national DBS license.

No matter how you look at the facts, Tele-communications Inc (TCI) should not be allowed to acquire a new DBS license. As the FCC knows better than anyone, TCI is the nation's largest cable operator, a major investor in (and sometimes partner with) Time-Warner (the nation's second largest cable operator), a major investor in the Primestar DBS service, and a partner with US WEST in European telecommunications network services and

in Time-Warner cable properties.



The only predictable result of allowing TCI to acquire an additional DBS license will be to increase media concentration, enhance TCI's enormous monopsony power in markets for video content services, and eliminate an important source of competition against cable television franchises. Consumers and independent content providers will be harmed if TCI is permitted to acquire another DBS license. Indeed, the FCC should be requiring TCI to divest its interest in PrimeStar, not allowing acquisition of an additional DBS license.

If TCI is allowed to acquire the third national DBS license, it will be an owner or major investor in two of the three national DBS licenses, the largest owner of cable franchises in the U.S., an investor in Time-Warner (the second largest owner of cable franchises in the U.S.), and a partner with US WEST, the dominate Local Exchange Telephone company in 14 western states.

Anti-trust remedies do not substitute for intelligent rules on cross-ownership. Anti-trust litigation takes several years and millions of dollars, and is not a realistic remedy for consumers which will be harmed by TCI's acquisition of an additional DBS license. It is the FCC's job to protect the public, and to insure that public property is managed in ways that benefit consumers and promote public interest objectives. Greater media concentration and the associated monopoly and monopsony power are not in the public interest. If the FCC allows TCI to acquire an additional DBS license it will have failed to protect the public. The FCC has a responsibility to address the predictable anticompetitive consequences of this concentration.

For these reasons, CPT urges the FCC to immediately suspend the proposed DBS auction on the 24 th of January, 1996, and reissue auction rules which prohibit TCI and other entities which own or operate DBS licenses, cable television or Video Dialtone services from acquiring new DBS licenses.

Sincerely,


James Love
Director
Todd Paglia
Staff Attorney

Consumer Project on Technology
P.O. Box 19367
Washington, DC 20036
<http://www.essential.org/cpt>
202/387-8030

January 23, 1996